THE HON'BLE MR. JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO. 22319 OF 2005

DATED: 14-10-2005

Between

Dr. N. Suryaprasad and another.

..... PETITIONERS

And

The Municipal Corporation, Kakinada,

represented by its Commissioner, Kakinada

and another.

..... RESPONDENTS

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THE HON'BLE MR. JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO. 22319 OF 2005

ORDER:

This writ petition is filed seeking a writ of Mandamus by declaring the action of the respondents in attempting to demolish the structures in Door No. 11-11-1, T.S.No.203, Block No. 11, Nookalamma Temple Street, Kakinada, East Godavari District without issuing any notice or reasonable opportunity to the petitioners as illegal and arbitrary.

It is stated in the affidavit filed in support of the writ petition that the 1st petitioner is the absolute owner of house bearing Door No. 11-11-1 part in Ward No. 1, T.S No. 203 admeasuring 677 square yards and the 2nd petitioner is the absolute owner and possessor of another part of the said premises admeasuring 677 square yards. After obtaining technical approval and sanctioned plan from the respondent – Municipal Corporation, the petitioners have constructed an orthopedic clinic and nursing home and have been running the same. It is stated that the additional constructions made in ground, first, second and third floors have also been regularized vide proceedings B.R.S No.85/98/G2, dated 16-07-2001. While the matter stood thus, it is alleged that on an earlier occasion when the staff of the respondents attempted to demolish the structures, the petitioners have shown the regularisation plan and having satisfied with the same, they left the premises. Again on 10-10-2005 at 4.00 P.M, the 2nd

respondent along with his staff visited the premises and tried to demolish the structures. When the petitioners have shown the regularization plan, they left the premises threatening that they would demolish the structures without any notice. Hence the writ petition.

Heard the learned counsel for the petitioners and
Mr. S. Nageswar Reddy, learned counsel appearing on behalf of the respondent – Corporation.

Having perused the material available on record, I am of the considered opinion that the present writ petition has been filed on mere apprehension. In fact, no notice of demolition as such has been served on the petitioners. In view of the same, without going into the merits of the case, I deem it appropriate to dispose of the writ petition with a direction to the respondents not to demolish the structures raised by the petitioners without following the due process of law.

The Writ Petition is accordingly disposed of. No costs.

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14-10-2005

ks/lur